

REMARKS

The examiner has rejected claims 8, 9, 11, 12, 14, and 15 under 35 USC 103(a) as being unpatentable over the Admitted Prior Art (APA – Figure 3) in view of Lui (US005337413A). The examiner's rejection relies on his overly expansive definition of the word "programming" found in the independent claims.

The Dictionary.com unabridged dictionary provides the following relevant definition for programming: "to insert or encode specific operating instructions into (a machine or apparatus.)" See <http://dictionary.reference.com/browse/programming>. The examiner's expansive interpretation of the term programming to include a "control program ... enabling controlling ... of the remote devices" is improper (See examiner's advisory action dated June 5, 2008). Support for this definition can be found at paragraph 18 of the specification.

At no point in the disclosure of Lui does Lui insert or encode any instructions into a machine or apparatus. Applicant draws attention to the distinction between providing instructions (as in Lui) and inserting or encoding instructions (as in programming). Inserting or encoding instructions requires that the instructions are saved or contained within the remote device (machine or apparatus) and not merely that the remote device receives and acts upon the instructions.

The device according to Lui provides operating instructions to the remote device. These instructions are in the form of control signals telling the remote device what to do. At no point are the control signals encoded into or inserted into the remote device, instead the control signals are interpreted, acted upon, and then have no further effect. Since the control instructions relied upon by the examiner are at no point inserted or encoded into the remote device, the mere act of controlling the remote device disclosed in Lui does not rise to the level of programming, as defined above.

The examiner has additionally relied on Col. 5 lines 27-41 of Lui to support his statement that "at least one of the bus repeater and the remote terminal is a programmable device." Col. 5 lines 27-41 shows only that a control program is running on a host processor and that environment information can be communicated to the host processor from the environment monitoring units. The device of Lui operates by the environment

monitoring unit storing temperature information within its registers, as well as storing comparison data received from said host processor. At no point does the disclosure of Lui disclose high level programming being performed on the environmental monitoring device, or on any other remote device.

The examiner has additionally misinterpreted the limitation of “a programmable device capable of being programmed using a high-level programming language” to encompass a control device, whose control program was written in a high level programming language controlling a remote device. Accepting control signals from a separate controller, where the controller is programmed in a high level language but the control signals are not high level code (as is done in Lui), does not meet the limitations of “a programmable device capable of being programmed using a high-level programming language.”

The limitation of “a programmable device capable of being programmed using a high-level programming language” requires that the programmable device be programmed with a high level programming language (i.e. a programming language with a high level of abstraction from machine code.) See paragraphs 18 and 23 of the specification. This limitation is not met by a host processor sending control signals to a remote device, since control signals and instructions do not constitute a high level programming language.

The examiner has additionally rejected claims 1-6 and 13 under 35 USC 103(a) as being unpatentable over APA in view of Lui in further view of Alexander (US006701402B1). Claims 1-6 and 13 contain the limitation of “capable of being programmed using a high-level programming language and capable of being reprogrammed.” As described above, APA in view of Lui does not disclose this limitation. The addition of Alexander fails to cure this defect, and as such claims 1-6 and 13 are allowable over APA in view of Lui in further view of Alexander.

New claims 16 and 17 have been added. Claims 16 and 17 recite a limitation requiring that the programmable device claimed in claims 1 and 8, respectively, “is programmed in a high level programming language and wherein code resulting from said programming or said reprogramming can be ported to another device.” Support for the

added limitation of claims 16 and 17 can be found in paragraphs 18 and 23 of the specification.

The claims further define programming or reprogramming of the programmable device to require that the programmable device be programmed in a high level programming language. The specification, at paragraph 18, describes a “programmable-type part device ... that can be programmed with code in a high level language.” The quoted language from the specification clearly indicates that the programmable device is the device which is receiving the high-level programming, and the same is reflected in the limitation of claims 16 and 17. Since Lui does not disclose any programmable device being programmed in a high level programming language, claims 16 and 17 are not obvious over Lui in view of APA under 35 USC 103.

No additional fees are seen to be required. However, the Commissioner is authorized to charge Deposit Account No. 08-0385, in the name of Hamilton Sundstrand Corporation for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

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